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SUBJECT: Heart of Gold: It Isn't Easy Doing Good -- The NGO
Registration Odyssey in South China

REF: GUANGZHOU 7743

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Summary

11. (SBU) While headlines trumpet the growth of Chinese civil society, philanthropy, and volunteerism as part of a budding harmonious society, the truth in South China is that legal status is out of reach for most non-governmental organizations (NGOs) - foreign and domestic. In this legal gray area NGOs can still provide services but their advocacy role and ability to reach out to the general population is strictly limited. Through 30 interviews with NGO, government, and university officials Congenoff tracked the path of NGOs on the registration odyssey in South China.

What is an Official Chinese NGO?

12. (SBU) While NGO is a common term that refers to an organization that carries on certain activities it has a very specific legal definition in China that refers only to organizations registered with the Ministry of Civil Affairs (MCA). In order to be a legal NGO (with one or two minor exceptions) an organization must be registered with the MCA as a social organization (a membership organization for a specific activity), a foundation (a fund to disperse money for projects) or a non-profit professional institution (private school, research institute or hospital). While government NGOs (GONGOS) technically fall under this law their case is handled separately in septel. There are other creative ways of registering, such as registering as a normal business through the business bureau (septel), but that is, strictly speaking, illegal because all NGOs are legally required to have registration through the MCA. Since the registration requirements for the aforementioned three types of MCA registration are similar their cases are handled together below.

Looking for a Sponsor to Lend a Hand (And a Reputation)

13. (SBU) The largest stumbling block in NGO registration is finding a 'professional leading organization' (sponsor or mother-in-law agency) to help you register with the Ministry of Civil Affairs. A professional leading organization can be a government ministry or mass organization (such as the Women's Federation, Communist Youth League or China Labor Union). Before a NGO can begin registration it must have already found its government sponsor. Actual sponsor responsibilities only involve reviewing yearly financial and program reports but the underlying (and widespread) rule is that a sponsor will be fully responsible if something goes wrong with a NGO's activities.

14. (SBU) In interviews with local government and NGO officials it was commonly stated that there is little incentive for a department such as the Ministry of Education or the Public Security Bureau to be adventurous enough to become responsible for an independent organization. In addition most sponsors will only help one NGO of a certain type. For example, the Bureau of Environmental Protection reportedly will not sponsor additional NGOs because it already is a sponsor to a government-associated non-governmental organization (GONGO). MCA officials stated that the rule was not that strict but any decisions about whether to sponsor a NGO or not are completely up to the government department.

15. (SBU) The Guangzhou and Shenzhen municipal and Guangdong Provincial MCA offices all stated that they play no formal role to help NGOs find a sponsor. Some local NGO officials charged that the MCA has even been blatantly obstructionist in rejecting and discouraging departments to act as sponsors for certain organizations. In one case a NGO's founder was reportedly told that its sponsor's activities didn't

sufficiently match its own and the MCA could not give him any other suggestions for government departments that could serve as a sponsor because the list of potential sponsors was secret. MCA said there is no guide or list to help people locate the government department that matches their activities but that it can give advice in an informal way.

Friendship Only Goes So Far

16. (U) While it is logical that many government departments are unwilling to assume responsibility for sponsoring a new unknown NGO even NGOs that have a long history of unofficial government cooperation often have little luck with registration. Unregistered NGOs, particularly health-related NGOs, commonly and openly work with government departments for activities. The Disabled Federation works with Habitat for Humanity to build houses and with Handicap International on prostheses programs, the Shenzhen and Nanning Centers for Disease Control (CDCs) work with AIDS Care China, Chi Heng Foundation, and Doctors without Borders on AIDS care while Handa (leprosy rehabilitation) works closely with government dermatological institutes. All of these organizations have been cooperating with their government unofficial partners for several years, despite their "illegal" unregistered status. However, almost every organization stated that official NGO registration sponsorship was a slim possibility.

A Question of the Bottom-Line for Sponsors

17. (SBU) Certain government departments can also face financial risk in sponsoring a NGO. Currently, many international donors are wary of giving money directly to an unregistered NGO because it has no legal "non-profit" status and often cannot have a legal organizational bank account. In order to give money to a local unregistered NGO the international donor would have to place the money directly into the NGO director's personal bank account - a situation its board of directors would not allow. Some intrepid unregistered NGOs have been able to work out an accommodation with its unofficial government partners. The

international donor will give money directly to the related government department and it will be charged with cooperating with the unregistered NGO for disbursement and programming. For example, the Bill Clinton Foundation distributes free anti-retro viral drugs (ARV) for the treatment of children with HIV and the Ministry of Health (often through the CDC) relies on NGOs to help identify the children, and develop adherence counseling programs to ensure implementation of the program. This still is technically "illegal" because the NGO is unregistered but NGOs, particularly in the health sector, have been able to use this system effectively with little interference from the MCA.

¶18. (SBU) In some cases this kind of cooperation works very well and in some there are charges that the government partner will skim 10-20% of the money off the top or only institute its own token program and use the donor money for everyday expenses. None of the NGO officials interviewed specifically named their partners but only they had "heard of it happening". While this system is effective for funding programming, it can undermine a government department's willingness to become an official sponsor to a NGO. If a government office helps a NGO to obtain official status, the NGO will then have legal non-profit status, be able to have its own organizational bank account and be able to independently pursue international donor funds. NGOs could be motivated to eliminate the "middle-man" or to act more independently. Most importantly, the government department can lose one of its sources of program funding if the NGO is directly funded by the international donor.

Fire Safety First!

¶19. (SBU) Even if the sponsor requirement is met there are many other hurdles that must be overcome in order to be able

to register. During the course of the registration investigation (every applicant in Guangdong Province has a personal site visit by a MCA investigator), Huiling is a local organization that runs a school, adult workshop and kindergarten for disabled people that is majority-run by 'lay' Vatican-associated Catholic priests from Hong Kong. During their MCA investigation the staff was told its kitchen is too small for the kindergarten and violated fire safety codes. When asked if they considered trying to raise the funds for the renovation they felt that it would still be hard to get registration. A municipal MCA official (in a different city) also listed office fire safety codes as one of the main pitfalls organizations run into during the registration process. According to the registration department of the Guangzhou Municipal Association for Industry and Commerce there is no systemized fire code inspection or site investigation for normal businesses.

The Bureaucratic Maze

¶10. (U) Another municipal MCA has a six-month 'pre-registration' process all NGOs that want to register as social organizations (the most common NGO type) are required to go through that it is not mandated by the 1998 law. In order to have the mandatory pre-registration process begin, all proof of rental agreements (with original house deed), sponsorship agreements, necessary deposits, and paperwork must be ready. After the pre-registration is over there is a period of six months of review where the NGO has to pay rent on facilities (and the MCA investigator visits every NGO) but is not allowed to hold activities until the certification is complete.

Utility Equals Survival

¶11. (SBU) In this climate most NGOs don't bother to register. All unregistered NGOs staff spoken with seemed to judge their prospect for survival on sheer usefulness of

their programs and ability to avoid controversy. Huiling officials see their kindergarten as in danger because there are so many kindergartens in the area that can accept people with mild disabilities but are relatively secure that their adult home for moderate and severely-mentally handicapped people (that shares the same illegal status) will not have problems because it is the only organization that provides this kind of service in the area. Health-related NGO officials were even more secure in their status because they provide such a stable source of international funding and/or recognition for the local CDCs and hospitals that they are not concerned about being shut down by the MCA. In addition, there is no system in place for the MCA or the police to enforce registration laws, so if a NGO avoids controversy and focus on providing services only they can usually avoid trouble.

...Unless There is Bad Press

¶12. (SBU) As issues ebb and flow so does the government's favor and their blind eye to "illegal unregistered NGOs". For example, after a group of HIV-positive people from Henan Province protested in Beijing the topic became more sensitive. The news story is complicated as it is said that the patients witnessed the high standard of care at the Hubei Province Medecins sans Frontieres (MSF) clinic and became incensed and decided to protest (with some encouragement from Aizhixiong, a Beijing-based AIDS unregistered NGO). The end result is the advanced stage of negotiations for a new Henan MSF clinic was abandoned and another AIDS NGO in our area (that also operates in Hubei) was told informally by a Department of Health official to avoid programs with Henan people until the furor died down. The surveillance on his organization, not only in Hubei, but also here in Guangzhou has greatly increased. Additionally, a request from Congenoff for a meeting with the Nanning, Guangxi Province MSF clinic was referred to the Beijing Headquarters (this had not been done on a previous visit) and then refused. Through the Guangxi CDC, Congenoffs were

still able to visit the MSF clinic and speak with their staff but only on a brief, informal basis.

....Or You Try to Organize Workers

¶13. (SBU) Last year when the NGO environment was generally seen as tense a newspaper article in Hong Kong about labor conditions in Guangdong Province landed the Chinese Womens Working Network (CWWN) in hot water (septel). While it had cooperated with the Department of Health in the past over health issues many of their activities involve trying to organize female migrant laborers in the Pearl River Delta to demand their rights. They received an order to register their center as a NGO through the MCA immediately. Since they had no hope of finding a government sponsor they closed up shop and set up temporary offices, moving 3-4 times in one year.

Comment

¶14. (SBU) The bad news is that it is still extremely difficult to be able to legally register as a NGO through the MCA unless the NGO founders are exceptional or exceptionally well-connected. The good news is you can mainly operate without registration, though it is technically illegal. Based on discussions with 22 different NGO organizations and researchers (not including the eight government departments also interviewed), it was clear that Guangdong and Guangxi follow national trends in having a much larger proportion of NGOs unregistered than registered. The advocacy role is largely vacated in Guangdong and Guangxi as HIV/AIDS NGOs focus on the at-risk populations only, disability NGOs focus on providing services, and legal aid NGOs focus on education instead of public advocacy. NGOs are doing great at providing government-type social

services but are lacking in public information, advocacy activities. Even the local Greenpeace office seems to be a quieter, defanged version of its international (or even Hong Kong) self. All of the NGOs interviewed do an incredibly large amount of work with a high level of enthusiasm and have an impact on their target audience, but as long as NGOs are confined to the legal sidelines their ability to build a strong civil society is marginalized.

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